

## **M1. CZM Consistency Statement MD**



# Consistency with Maryland State Coastal Zone Management Policies

November 2021  
Revised November 2022

## Maryland Offshore Wind Project Lease OCS-A 0490

**Prepared For:**

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**Prepared By:**

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East Providence, RI 02915



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## 1.0 Introduction

US Wind, Inc. (US Wind) has prepared this Consistency Certification to demonstrate that its proposed development of the Maryland Offshore Wind Project within Bureau of Ocean Energy Management (BOEM) Lease Area OCS-A 0490 is consistent with the provisions identified as enforceable by the Coastal Management Programs (CMPs) of the state of Maryland (Approved by NOAA on October 19, 2020, Effective July 6, 2020). As described herein and in the Construction and Operations Plan (COP), the Project will comply with the enforceable policies of the approved management programs and will be constructed in a manner consistent with such programs.

This document is provided pursuant to the requirements of 15 CFR 930.57 of the Coastal Zone Management Act (CZMA) Federal Consistency regulations. Per 15 CFR 930.53, if a state chooses to review federal license or permit activities outside of the coastal zone, it must generally describe the geographic location of such activities. The state of Maryland does not have a geographic location description (GLD). In the absence of a GLD covering the project area, the applicant does not need to submit a consistency certification. The state may submit an unlisted activities request to NOAA's Office of Coastal Management within 30-days of a license or permit application (in this case, when the Notice of Intent is published) or the applicant can voluntarily submit the Consistency Certification to the state and then continue through the normal Federal consistency process. Therefore, US Wind submits the Consistency Certification voluntarily to the state of Maryland.

Section 307(c) (1) of the CZMA, as amended, requires that each federal agency activity within or outside the coastal zone affecting any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent with the enforceable policies of federally-approved state management programs.

## 2.0 Location and Description of Proposed Project

US Wind is proposing the Maryland Offshore Wind Project (the Project) within the area of BOEM Lease OCS-A 0490 (Lease), consisting of offshore Wind Turbine Generators (WTGs) (each placed on a foundation support structure), Offshore Substations (OSSs), a Met Tower, Onshore and Offshore Export Cables, Interconnection Facilities and an onshore Operations & Maintenance Facility (O&M Facility).

The WTGs, OSSs, Met Tower, inter-array cables, and majority of the offshore export cables would be in federal waters on the Outer Continental Shelf (OCS) in the Lease area or associated cable easement from BOEM.

Infrastructure located in Maryland would include the O&M Facility. US Wind plans to lease and/or acquire a suitable existing building and quayside space in the vicinity of Ocean City harbor for the O&M Facility. The facility would be located in a suitable commercial real estate location of up to 3 acres and in close proximity to the Ocean City harbor, with an associated berthing location. If no existing facilities are identified, US Wind may construct a new O&M Facility or significantly overhaul existing structures.



As described in the COP, the Project has significant environmental benefits. The electricity generated by the Project will displace electricity generated by higher-polluting fossil fuel-powered plants and result in a significant net reduction in emissions over the lifespan of the Project. The Project is also expected to bring significant employment and other economic benefits to the region and contribute to the development of a utility scale, domestic offshore wind industry.

No permanent structures associated with the Project will be located within Maryland State waters or within the Maryland coastal zone.

### **3.0 Consistency with Maryland State Coastal Zone Management Policies**

The Project has been sited and designed, and will be constructed and operated, in a manner that is consistent with the applicable Maryland Department of Natural Resources (DNR) CMP Enforceable Coastal Policies. The policies were approved by the National Oceanic and Atmospheric Administration (NOAA) on October 19, 2020, effective July 6, 2020. The policies that are relevant to the Project are listed below and accompanied by a brief description of the manner in which the Project is consistent with them. US Wind's primary objective throughout the siting, design, and development of the Project has been to avoid or minimize impacts to environmental and coastal resources.

#### **3.1 Core Policies**

##### **3.1.1 Quality of Life**

***Quality of Life Policy 1 – Air Quality:*** *It is State policy to maintain that degree of purity of air resources which will protect the health, general welfare, and property of the people of the State. MDE (C9) Md. Code Ann., Envir. §§ 2-102 to -103.*

Project air quality impacts to the state of Maryland will be related to increased vessel and vehicle traffic in Maryland waters and on land. Construction vessels anticipate using a port in the Greater Baltimore area, Sparrows Point, and operations vessels would utilize the O&M Facility in Worcester County, Maryland. Vessels utilizing the port in the Greater Baltimore area would traverse up and down the Chesapeake Bay and/or the Chesapeake and Delaware Canal.

Activities associated with Project construction, operation, and decommissioning have the potential to temporarily affect air quality locally. Potential offshore emission sources will include tugboats, crane barges, cable laying vessels, crew boats, jack-up vessels, survey vessels, supply ships and generators. Land based emissions sources may include non-road construction equipment, worker vehicles and delivery vehicles. The WTGs and OSSs will be negligible sources of air emissions during Project operation and will reduce shore-based emissions from existing fossil fuel power plants. Prevailing westerly (west to east flow) winds would minimize the dispersion of offshore emissions associated with the Project to onshore areas.

During Project construction, the combustion of fuels (diesel oil and gasoline) in the propulsion engines of vessels and stationary equipment on vessels (e.g., cranes and generators) will produce emissions of criteria pollutants. These emissions will include primarily nitrogen oxides



(NO<sub>x</sub>) and carbon monoxide (CO), lesser amounts of volatile organic compounds (VOCs), an ozone precursor, and particulate matter PM<sub>10</sub> (mostly in the form of PM<sub>2.5</sub>), and negligible amounts of sulfur oxides (SO<sub>x</sub>) and lead. A portion of the particulate emissions is expected to consist of black carbon (BC), which has been associated with health problems and contributes to climate change. Emissions of non-criteria pollutants are expected to be negligible. Greenhouse gas emissions including carbon dioxide (CO<sub>2</sub>) and small amounts of nitrous oxide (N<sub>2</sub>O) and methane (CH<sub>4</sub>) will also be emitted.

Appendix II-C1 includes Project emissions information, including:

- the estimated number and size of each engine type, the expected usage of each engine, and the load and emission factors used for the Project emissions estimates
- expected Project emissions during construction and operation
- avoided potential emissions

The Project will produce negligible emissions during operation and the energy generated will have the ability to displace energy production or offset emissions from existing power plants resulting in an overall net reduction in emissions.

Mitigation measures will be implemented to ensure that air emissions from the Project during construction, operation, and decommissioning are minimized. Examples of such mitigation measures include the following:

- US Wind will obtain all necessary Clean Air Act permits under the state of Maryland's delegated program and comply with applicable permit conditions.
- Vessel engines will meet the applicable EPA and International Maritime Organization (IMO) marine engine emission standards.
- Engines will be operated and maintained in accordance with the manufacturer's recommendations and industry practices.
- Diesel fuel for use in the diesel engines will meet the per gallon fuel standards of 40 CFR 80.510(b).
- Land based engines that meet EPA non-road engine standards will be used, as applicable.
- Unnecessary idling of engines will be limited, where practicable.
- Where practicable, engines with add-on emission controls will also be used.

As a result of these and other measures that may be identified during the permitting process, the impacts of the Project to air quality during construction, operation, and decommissioning will be minimized and the overall impact to onshore air quality is expected to be negligible.

The O&M Facility in the Ocean City, Maryland region along the Atlantic Ocean will be the primary location to support operation and maintenance activities. Some operations and maintenance activities may be supported from Sparrows Point. Operation and maintenance activities are



anticipated to be significantly less than construction activities. Potential air quality impacts associated with operation, maintenance, and repair are anticipated to be negligible.

Therefore, the Project is consistent with this policy.

**Quality of Life Policy 2 - Noise:** *The environment shall be free from noise which may jeopardize health, general welfare, or property, or which degrades the quality of life. MDE (C9) COMAR 26.02.03.02.*

Vessel traffic would produce ambient noise during Project construction and operation. The Chesapeake Bay is heavily traversed by vessels. Noise impacts associated with vessel traffic are anticipated to be negligible.

Construction and operation activities at the ports may produce some level of noise. However, the industrialized areas of the port and its surrounding environs are unlikely to have a significant impact on animals, property, or humans. Noise impacts associated with construction and operation are anticipated to be negligible.

The Project is consistent with this policy.

**Quality of Life Policy 3 – Protection of State Wild Lands:** *The unique ecological, geological, scenic, and contemplative aspects of State wild lands shall not be affected in a manner that would jeopardize the future use and enjoyment of those lands as wild. DNR (C7) Md. Code Ann., Nat. Res. §§ 5-1201, -1203.*

No new Project structures are proposed on Maryland wild lands.

The Visual Impact Assessment to be completed for the Project will include an assessment of visual impacts to scenic and wild lands. It is not anticipated that the Project will significantly impact the unique aspects of such areas.

The Project is consistent with this policy.

**Quality of Life Policy 4 – Protection of State Lands & Cultural Resources:** *The safety, order, and natural beauty of State parks and forests, State reserves, scenic preserves, parkways, historical monuments and recreational area shall be preserved. DNR (B1) Md. Code. Ann., Nat. Res. § 5-209.*

While there are state parks, state reserves, scenic preserves, parkways, historic monuments, and recreational areas throughout the Chesapeake Bay and along the Maryland Atlantic coastline, the Project is not anticipated to impact these areas.

No structures are anticipated within Maryland State waters or along the coast. The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure, which could occur onshore in a location that could affect coastal resources. If such development occurs, construction of the facility would occur in previously disturbed areas and be consistent with this policy.



Construction activities associated with the Project are related to construction and operation vessel and vehicle traffic to and from a port in the Greater Baltimore area and O&M Facility to the Lease area. The Chesapeake Bay and the Maryland coast are heavily traversed by vessels of varying sizes. As vessel traffic during Project construction is not anticipated to be significantly different than existing conditions, Project impacts are anticipated to be temporary and negligible.

After Project construction is completed, vessel traffic associated with the Project will be reduced to operation, maintenance, and repair activities. The Project will produce no emissions and the energy generated will have the ability to displace energy production or offset emissions from existing power plants resulting in an overall net reduction in emissions. Annual construction, operations and decommissioning emissions have been accounted for in the estimate of the total avoided emissions for the lifespan of the Project. These impacts are anticipated to be negligible and the impacts on these resource areas are related to visual and auditory impacts from vessels, which are similar to existing conditions.

The Visual Impact Assessment to be completed for the Project will include an assessment of visual impacts to State parks, historical monuments, and recreational areas. It is not anticipated that the Project will significantly impact the natural beauty of such areas.

The Project is consistent with this policy.

***Quality of Life Policy 5 – Natural Character & Scenic Value of Rivers & Waterways:*** *The natural character and scenic value of a river or waterway must be given full consideration before the development of any water or related land resources including construction of improvements, diversions, roadways, crossings, or channelization. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-405; COMAR 26.17.04.11.*

The natural character and scenic value of a river or waterway would be given full consideration should any land development occur. The Project is consistent with this policy.

***Quality of Life Policy 6 – Natural Flow of Scenic & Wild Rivers:*** *A dam or other structure that impedes the natural flow of a scenic or wild river may not be constructed, operated, or maintained, and channelization may not be undertaken, until the applicant considers alternatives less harmful to the scenic and wild resource. Construction of an impoundment upon a scenic or wild river is contrary to the public interest, if that project floods an area of unusual beauty, blocks the access to the public of a view previously enjoyed, or alters the stream's wild qualities. MDE/DNR (C7) Md. Code Ann., Nat. Res. § 8-406; COMAR 26.17.04.11.*

No dams or other structures that impede the natural flow of a scenic or wild river are proposed as part of the Project. Therefore, this policy is not applicable to the Project.

***Quality of Life Policy 7 – Atlantic Coast Development:*** *Any land clearing, construction activity, or the construction or placement of permanent structures is prohibited within the Beach Erosion Control District except the construction and installation of a qualified submerged energy line, if the project does not result in any significant permanent environmental damage to the Beach Erosion Control District and is not constructed or installed within the Assateague State Park; and any project or activity specifically for storm control, beach erosion and sediment control, or maintenance projects designed to benefit the Beach Erosion Control District. MD/DNR (B1) Md. Code Ann., Nat. Res. § 8-1102.*



The Project will not include any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District.

The Project is consistent with this policy.

**Quality of Life Policy 8 – Integrity & Natural Character of Assateague Island:** *Activities which will adversely affect the integrity and natural character of Assateague Island will be inconsistent with the State's Coastal Management Program, and will be prohibited. MDE/DNR (B1) Md. Code Ann., Nat. Res. §§ 5-209, 8-1102.*

Construction and operation vessel traffic may traverse past Assateague Island, but this activity will be consistent with existing vessel traffic within the area.

The Visual Impact Assessment to be completed for the Project will include an assessment of visual impacts to Assateague Island. It is not anticipated that the Project will adversely impact its integrity or natural character.

The Project is consistent with this policy.

**Quality of Life Policy 9 – Public Outreach:** *An opportunity for a public hearing shall be provided for projects in non-tidal waters that dredge, fill, bulkhead, or change the shoreline; construct or reconstruct a dam; or create a waterway, except in emergency situations. MDE (A3) COMAR 26.17.04.13A.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Quality of Life Policy 10 – Erosion & Sediment Control:** *Soil erosion shall be prevented to preserve natural resources and wildlife; control floods; prevent impairment of dams and reservoirs; maintain the navigability of rivers and harbors; protect the tax base, the public lands, and the health, safety and general welfare of the people of the State, and to enhance their living environment. MDA (C4) Md. Code Ann., Agric. § 8- 102(d).*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure, which could occur onshore in a location that could affect coastal resources. If such development occurs, soil erosion would be managed consistent with this policy.

The Project is consistent with this policy.

**Quality of Life Policy 11 – Safeguards for Outer Continental Shelf Development:** *Operations on the Outer Continental Shelf must be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or property, or which may endanger life or health. (B2) Md. Code Ann., Envir. §§ 17-101 to -403; COMAR 26.24.01.01; COMAR 26.24.02.01, .03; COMAR 26.24.05.01.*



Operations on the OCS will be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques to prevent or minimize damage to the environment or property, or which may endanger life or health. Installation and construction activities on the OCS will utilize BOEM Best Management Practices (BMPs) to ensure worker safety. US Wind has also developed a Safety Management System (SMS) from the International Organization of Standards (ISO) 45001 and American National Standards Institute (ANSI) Z10 to provide guidance and set expectations for on the job, day to day safety for US Wind employees, contractors, subcontractors and vendors based on the regulatory requirements of the U.S. and good practices from offshore projects in Europe as well as other pertinent offshore experience such as the oil and gas industry (See Appendix I-B).

The Project is consistent with this policy.

### **3.1.2 Waste & Debris Management**

**Waste & Debris Management Policy 1 – Hazardous Waste Management:** *Controlled hazardous substances may not be stored, treated, dumped, discharged, abandoned, or otherwise disposed anywhere other than a permitted controlled hazardous substance facility or a facility that provides an equivalent level of environmental protection. MDE (D4) Md. Code Ann., Envir. § 7-265(a).*

No controlled hazardous substances will be stored, treated, dumped, discharged, abandoned, or otherwise disposed anywhere other than a permitted controlled hazardous substance facility or a facility that provides an equivalent level of environmental protection.

The Project is consistent with this policy.

**Waste & Debris Management Policy 2 – Hazardous Waste Management in Port of Baltimore:** *A person may not introduce in the Port of Baltimore any hazardous materials, unless the cargo is properly classed, described, packaged, marked, labeled, placarded, and approved for highway, rail, or water transportation. MDOT (D3) COMAR 11.05.02.04A.*

Any hazardous materials introduced into the Port of Baltimore will be properly classed, described, packaged, marked, labeled, placarded and approved for highway, rail, or water transportation per applicable regulations.

The Project is consistent with this policy.

### **3.1.3 Water Resources Protection & Management**

**Water Resources Protection & Management Policy 1 – Pollution Discharge Permit:** *No one may add, introduce, leak, spill, or emit any liquid, gaseous, solid, or other substance that will pollute any waters of the State without State authorization. MDE (A5) Md. Code Ann., Envir. §§ 4-402, 9-101, 9-322.*

US Wind and its contractors will obtain authorization for discharges into Maryland waters, if needed. During construction and operations activities, all vessels will be in full compliance with applicable State laws and policies regarding discharges of waste.



The Project is consistent with this Policy.

**Water Resources Protection & Management Policy 2 – Protection of Designated Uses:** *All waters of the State shall be protected for water contact recreation, fish, and other aquatic life and wildlife. Shellfish harvesting and recreational trout waters and waters worthy of protection because of their unspoiled character shall receive additional protection. MDE (A1) COMAR 26.08.02.02.*

The Project will not impact trout waters or unspoiled waters. There will be no impacts to inland rivers, streams, and lakes. The Project will be within coastal and ocean waters only. Wastes from construction vessels may be released into Chesapeake Bay or the Atlantic Ocean either as part of their allowed operations or during an accidental spill. Because authorized releases are relatively clean and accidental releases would be infrequent and dilute quickly in these large bodies of water, it is anticipated that routine and accidental releases will have a negligible impact on aquatic life.

It is anticipated that routine and accidental releases associated with the Project will have negligible impacts on water quality during operations. Maintenance personnel and equipment will likely access the WTGs, OSSs, and submarine cables by vessel. Vessels traveling to the Project area may discharge sanitary waste, litter, and engine emissions into the Atlantic Ocean. However, the discharged volume of these materials would be small and unlikely to have a measurable impact on water quality. Materials such as paint, solvent, or lubricant could also be spilled during maintenance work, but these would also be used in relatively small quantities. Vessels may also experience accidental oil spills. Because marine discharges are not a part of routine operations for the Project, it is anticipated that they will have a negligible impact on water quality.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 3 – Prohibition of Harmful Toxic Impacts:** *The discharge of any pollutant which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms is prohibited. MDE (A4) COMAR 26.08.03.01.*

The Project will not discharge pollutants which will accumulate to toxic amounts during the expected life of aquatic organisms or produce deleterious behavioral effects on aquatic organisms. Response plans will be in place to respond to accidental releases or spills.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 4 – Pre-Development Discharge Permit Requirement:** *Before constructing, installing, modifying, extending, or altering an outlet or establishment that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. MDE (D6) Md. Code Ann., Envir. § 9-323(a).*

The Project does not involve the construction, installation, modification, extension, or alteration of an outlet or establishment that could cause or increase the discharge of pollutants into the waters of the State. Therefore, this policy is not applicable to the Project.



**Water Resources Protection & Management Policy 5 – Use of Best Available Technology or Treat to Meet Standards:** *The use of best available technology is required for all permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment shall be required and based on waste load allocation. MDE (D4) COMAR 26.08.03.01C.*

The Project will use best available technology for any permitted discharges into State waters, but if this is insufficient to comply with the established water quality standards, additional treatment will be implemented based on waste load allocation.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 6 – Control of Thermal Discharges:** *Thermal discharges shall be controlled so that the temperature outside the mixing zone (50 feet radially from the point of discharge) meets the applicable water quality criteria or discharges comply with the thermal mixing zone criteria. MDE (D4) COMAR 26.08.03.03C.*

No thermal discharges are proposed within Maryland waters. Therefore, this policy is not applicable to the Project.

**Water Resources Protection & Management Policy 7 – Pesticide Storage:** *Pesticides shall be stored in an area located at least 50 feet from any water well or stored in secondary containment approved by the Department of the Environment. MDA (C4) COMAR 15.05.01.06.*

The Project does not involve the storage of pesticides. Therefore, this policy is not applicable to the Project.

**Water Resources Protection & Management Policy 8 – Stormwater Management:** *Any development or redevelopment of land for residential, commercial, industrial, or institutional purposes shall use small-scale non-structural stormwater management practices and site planning that mimics natural hydrologic conditions, to the maximum extent practicable. Development or redevelopment will be consistent with this policy when channel stability and 100 percent of the average annual predevelopment groundwater recharge are maintained, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary. MDE (C9) Md. Code Ann., Envir. § 4-203; COMAR 26.17.02.01, .06.*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure, which could occur onshore in a location that could affect coastal resources. If such development occurs, small-scale non-structural stormwater management practices and site planning to mimic natural hydrologic conditions would be employed.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 9 – Unpermitted Dumping of Used Oil:** *Unless otherwise permitted, used oil may not be dumped into sewers, drainage systems, or any*



waters of the State or onto any public or private land. MDE (D4) Md. Code Ann., Envir. § 5-1001(f).

Used oil will not be dumped into sewers, drainage systems, or any waters of the State or onto any public or private lands during the Project, unless otherwise permitted.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 10 – Toxicity Monitoring:** *If material being dumped into Maryland waters or waters off Maryland’s coastline has demonstrated actual toxicity or potential for being toxic, the discharger must perform biological or chemical monitoring to test for toxicity in the water. MDE (A5) COMAR 26.08.03.07(D); COMAR 26.08.04.01.*

No dumping of toxic materials or potentially toxic materials into Maryland waters or waters off Maryland’s coastline is anticipated during the Project. However, if necessary, US Wind and its contractors will perform biological or chemical monitoring to test for toxicity in the water.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 11 – Public Outreach:** *Public meetings and citizen education shall be encouraged as a necessary function of water quality regulation. MDE (A2) COMAR 26.08.01.02E(3).*

US Wind does not anticipate a need for public meetings or citizen education for water quality regulation related to the vessels in Maryland waters but will do so if requested.

The Project is consistent with this policy.

**Water Resources Protection & Management Policy 12 – No Adverse Impact from Water Appropriation:** *Any water appropriation must be reasonable in relation to the anticipated level of use may not have an unreasonable adverse impact on water resources or other users of the waters of the State. MDE (C9) COMAR 26.17.06.02.*

The water use associated with the Project will not have an unreasonable adverse impact on water resources or other users of the waters of the State.

The Project is consistent with this policy.

### **3.1.4 Flood Hazards & Community Resilience**

**Flood Hazards & Community Resilience Policy 1 – No Adverse Impact:** *Projects in coastal tidal and non-tidal flood plains which would create additional flooding upstream or downstream, or which would have an adverse impact upon water quality or other environmental factors, are contrary to State policy. MDE (C2) Md. Code Ann., Envir. § 5-803; COMAR 26.17.05.04A.*

The Project will not create additional flooding or have an adverse impact on water quality.

The Project is consistent with this policy.



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**Flood Hazards & Community Resilience Policy 2 – Non-Tidal Waters and Non-Tidal Floodplains:** *The following policies apply to projects in non-tidal waters and non-tidal floodplains, but not in non-tidal wetlands. MDE (C2) COMAR 26.17.04.01, .07, .11.*

**Flood Hazards & Community Resilience Policy 2a – 1-Foot Freeboard Above 100-year Flood:** *Proposed floodplain encroachments, except for roadways, culverts, and bridges, shall be designed to provide a minimum of 1 foot freeboard above the elevation of the 100-year frequency flood event. In addition, the elevation of the lowest floor of all new or substantially improved residential, commercial, or industrial structures shall also be at least 1 foot above the elevation of the 100-year frequency flood event.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2b – Stability of Unlined Earth Channels:** *Proposed unlined earth channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, throughout their length unless it can be demonstrated that the stream channel will remain stable.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2c – Stability of Lined Channels:** *Proposed lined channels may not change the tractive force associated with the 2-year and the 10-year frequency flood events, by more than 10 percent, throughout their length unless it can be demonstrated that the stream channel will remain stable.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2d – Prohibition of Dam Construction in High Risk Areas:** *Category II, III, or IV dams may not be built or allowed to impound water in any location where a failure is likely to result in the loss of human life or severe damage to streets, major roads, public utilities, or other high value property.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2e – Prohibition of Projects That Increase Risk Unless Mitigation Requirements Are Met:** *Projects that increase the risk of flooding to other property owners are generally prohibited, unless the area subject to additional risk of flooding is purchased, placed in designated flood easement, or protected by other means acceptable to the Maryland Department of the Environment.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2f – Prohibition of Construction or Substantial Improvements in 100-Year Floodplain:** *The construction or substantial improvement of any residential, commercial, or industrial structures in the 100-year frequency floodplain and below the water surface elevation of the 100-year frequency flood may not be permitted. Minor maintenance and repair may be permitted. The modifications of existing structures shall be designed and constructed in accordance with specifications approved by the Maryland Department of the Environment.*



The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2g – Channelization is Discouraged:** *Channelization should be the least favored flood control technique.*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 2h – Preference of Multi-Purpose Use Projects, Project Accountability, & 50% Reduction in Damage:** *Multi-purpose use shall be preferred over single purpose use, the proposed project shall achieve the purposes intended, and, at a minimum, project shall provide for a 50 percent reduction of the average annual flood damages..*

The Project is located within tidal waters. Therefore, this policy is not applicable to the Project.

**Flood Hazards & Community Resilience Policy 3 – Development-Related Runoff Restrictions for the Gwynne Falls and Jones Falls Watersheds:** *Development may not increase the downstream peak discharge for the 100-year frequency storm event in the following watersheds and all their tributaries: Gwynn Falls in Baltimore City and Baltimore County; and Jones Falls in Baltimore City and Baltimore County. MDE (C2) COMAR 26.17.02.07.*

The Project will not increase the downstream peak discharge for the 100-year frequency storm event in the Gwynn Falls or Jones Falls watersheds or in their tributaries.

The Project is consistent with this policy.

## **3.2 Coastal Resources**

### **3.2.1 The Chesapeake and Atlantic Coastal Bays Critical Area**

In addition to the policies in this section, the laws approved by NOAA implementing the Chesapeake and Atlantic Bays Critical Area Protection Program are enforceable policies.

**Critical Area Policy 1 – Scope of the Buffer:** *In the Critical Area, a minimum 100-foot vegetated buffer shall be maintained landward from the mean high water line of tidal waters, the edge of each bank of tributary streams, and the landward edge of tidal wetlands. The buffer shall be expanded in sensitive areas in accordance with standards adopted by the Critical Area Commission. The buffer is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices that protect water quality. Mitigation or other measures for achieving water quality and habitat protection objectives may be necessary in buffer areas for which the Critical Area Commission has modified the minimum applicable requirements due to the existing pattern of development. CAC (C9) COMAR 27.01.09.01, .01-6, .01-8.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area under the Atlantic Coastal Bays Critical Area Program. A minimum 100-foot vegetated buffer will be maintained landward from the mean high water line of tidal waters, unless existing patterns of development prevent the buffer from protecting ecological quality and functions, in which case alternative means of protecting ecological resources will be proposed.



The Project is consistent with this policy.

**Critical Area Policy 2 – Buffer Disturbance:** *Disturbance to a buffer in the Critical Area is only authorized for a shore erosion control measure or for new development or redevelopment that is water-dependent; meets a recognized private right or public need; minimizes the adverse effects on water quality and fish, plant, and wildlife habitat; and, insofar as possible, locates nonwater-dependent structures or operations associated with water-dependent projects or activities outside the buffer. Disturbance to a buffer may only be authorized in conjunction with mitigation performed in accordance with an approved buffer management plan. CAC (C9) COMAR 27.01.03.03; COMAR 27.01.09.01, .01-2, .01-3.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City’s inner harbor, which is an Intensely Developed Area and within a Buffer Management Area under the Atlantic Coastal Bays Critical Area Program. If disturbance to a buffer is proposed, a buffer management plan will be developed with proposed mitigation of impacts.

The Project is consistent with this policy.

**Critical Area Policy 3 – Protection of Bird Nesting Areas:** *Colonial water bird nesting sites in the Critical Area may not be disturbed during breeding season. CAC (C9) COMAR 27.01.09.04.*

The Project will not disturb colonial water bird nesting sites in the Critical Area during breeding season. Vessels and vehicles will utilize established vessel courses and roadways, respectively.

The Project is consistent with this policy.

**Critical Area Policy 4 – Protection of Waterfowl:** *New facilities in the Critical Area shall not interfere with historic waterfowl concentration and staging areas. CAC (C9) COMAR 27.01.09.04.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City’s inner harbor, which does not include any historic waterfowl concentration and staging areas.

The Project is consistent with this policy.

**Critical Area Policy 5 – Restrictions on Stream Alterations:** *Physical alterations to streams in the Critical Area shall not affect the movement of fish. CAC (C9) COMAR 27.01.09.05.*

The Project does not involve physical alteration to streams in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 6 – Prohibition of Riprap and Artificial Surfaces:** *The installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams in the Critical Area is prohibited unless water quality and fisheries habitat will be improved. CAC (C9) COMAR 27.01.09.05.*



The Project does not involve the installation or introduction of concrete riprap or other artificial surfaces onto the bottom of natural streams in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 7 – Prohibition of Dams and Structures:** *The construction or placement of dams or other structures in the Critical Area that would interfere with or prevent the movement of spawning fish or larval forms in streams is prohibited. CAC (C9) COMAR 27.01.09.05.*

The Project does not involve the construction or placement of dams or other structures in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 8 – Restrictions on Stream Crossings and Impacts:** *Development may not cross or affect a stream in the Critical Area, unless there is no feasible alternative and the design and construction of the development prevents increases in flood frequency and severity that are attributable to development; retains tree canopy and maintains stream water temperature within normal variation; provides a natural substrate for affected streambeds; and minimizes adverse water quality and quantity impacts of stormwater. CAC (C9) COMAR 27.01.02.04.*

The Project does not involve development that may cross or affect a stream in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 9 – Time of Year Restrictions for Construction in Streams:** *The construction, repair, or maintenance activities associated with bridges or other stream crossings or with utilities and roads, which involve disturbance within the buffer or which occur in stream are prohibited between March 1 and May 15. CAC (C9) COMAR 27.01.09.05.*

The Project does not involve the construction, repair, or maintenance activities associated with bridges or other stream crossings or with utilities and roads, which involve disturbance within the buffer. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 10 – Avoid & Minimize Construction Impacts in Habitat Areas:** *Roads, bridges, or utilities may not be constructed in any areas designated to protect habitat, including buffers, in the Critical Area, unless there is no feasible alternative and the road, bridge, or utility is located, designed, constructed, and maintained in a manner that maximizes erosion protection; minimizes negative impacts to wildlife, aquatic life, and their habitats; and maintains hydrologic processes and water quality. CAC (C9) COMAR 27.01.02.03C, .04C, .05C.*

The Project does not involve the construction of roads, bridges, or utilities in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 11 – Intensely Developed Areas:** *The following policies apply in those areas of the Critical Area that are determined to be areas of intense development.*

- *To the extent possible, fish, wildlife, and plant habitats, should be conserved.*
- *Development and redevelopment shall improve the quality of runoff from developed areas that enters the Chesapeake or Atlantic Coastal Bays or their tributary streams.*

- *At the time of development or redevelopment, appropriate actions must be taken to reduce stormwater pollution by 10%. Retrofitting measures are encouraged to address existing water quality and water quantity problems from stormwater.*
- *Development activities may cross or affect a stream only if there is no feasible alternative, and those activities must be constructed to prevent increases in flood frequency and severity attributable to development, retain tree canopy, maintain stream water temperatures within normal variation, and provide a natural substrate for affected streambeds.*
- *Areas of public access to the shoreline, such as foot paths, scenic drives, and other public recreational facilities, shall be maintained and, if possible, are encouraged to be established.*
- *Ports and industries which use water for transportation and derive economic benefits from shore access, shall be located near existing port facilities or in areas identified by local jurisdictions for planned future port facility development and use if this use will provide significant economic benefit to the State or local jurisdiction.*
- *Development shall be clustered to reduce lot coverage and maximize areas of natural vegetation.*
- *Development shall minimize the destruction of forest and woodland vegetation.*

*CAC (C9) COMAR 27.01.02.03.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area under the Atlantic Coastal Bays Critical Area Program. The O&M Facility will be designed to conserve fish, wildlife, and plant habitat to the extent possible, improve the quality of runoff, reduce stormwater pollution by 10%, establish permeable areas in vegetation, if practicable, and maintain areas of public access to the shoreline.

The Project is consistent with this policy.

**Critical Area Policy 12 – Limited Development Areas & Resource Conservation Areas:** *The following policies apply in those portions of the Critical Area that are not areas of intense development.*

- *Development shall maintain, and if possible, improve the quality of runoff and ground water entering the Chesapeake and Coastal Bays.*
- *To the extent practicable, development shall maintain existing levels of natural habitat.*
- *All development sites shall incorporate a wildlife corridor system that connects undeveloped vegetated tracts onsite with undeveloped vegetated tracts offsite.*
- *All forests and developed woodlands that are cleared or developed shall be replaced on not less than an equal area basis.*

- *If there are no forests on a proposed development site, the site shall be planted to provide a forest or developed woodland cover of at least 15 percent.*
- *Development on slopes equal to or greater than 15 percent, as measured before development, shall be prohibited unless the project is the only effective way to maintain the slope and is consistent with other policies.*
- *To the extent practicable, development shall be clustered to reduce lot coverage and maximize areas of natural vegetation.*
- *Lot coverage is limited to 15 percent of the site.*

CAC (C9) COMAR 27.01.02.04.

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area under the Atlantic Coastal Bays Critical Area Program. This policy is not applicable to the Project.

**Critical Area Policy 13 – Public Facilities Allowed With Restrictions in Buffer:** *Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the buffer in portions of the Critical Area not designated as intensely developed areas only if adequate sanitary facilities exist; service facilities are, to the extent possible, located outside the Buffer; permeable surfaces are used to the extent practicable, if no degradation of ground water would result; and disturbance to natural vegetation is minimized. CAC (C9) COMAR 27.01.03.08.*

The Project is not proposing any public beaches or other public oriented recreation or education areas. This policy is not applicable to the Project.

**Critical Area Policy 14 – Water-Dependent Research Facilities:** *Water-dependent research facilities or activities may be permitted in the buffer, if nonwater-dependent structures or facilities associated with these projects are, to the extent possible, located outside the buffer. CAC (C9) COMAR 27.01.03.09.*

The Project does not involve water-dependent research facilities or activities in the buffer. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 15 – Siting Industrial & Port-Related Facilities:** *Water-dependent industrial and port-related facilities may only be located in the portions of areas of intense development designated as modified buffer areas. CAC (C9) COMAR 27.01.03.05.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is designated as a modified buffer area within an Intensely Developed Area.

The Project is consistent with this policy.



***Critical Area Policy 16 – Restrictions on Waste Facilities:*** *Solid or hazardous waste collection or disposal facilities and sanitary landfills are not permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these facilities are needed in order to correct an existing water quality or wastewater management problem. CAC (C9) COMAR 27.01.02.02.*

The Project does not involve solid or hazardous waste collection or disposal facilities or sanitary landfills in the Critical Area. Therefore, this policy is not applicable to the Project.

***Critical Area Policy 17 – Buffer Management Plan:*** *If a development or redevelopment activity occurs on a lot or parcel that includes a buffer or if issuance of a permit, variance, or approval would disturb the buffer, the proponents of that activity must develop a buffer management plan that clearly indicates that all applicable planting standards developed by the Critical Area Commission will be met and that appropriate measures are in place for the protection and maintenance of the buffer. CAC (C9) COMAR 27.01.09.01-1, .01-3.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area and within a Buffer Management Area under the Atlantic Coastal Bays Critical Area Program. If disturbance to a buffer is proposed, a buffer management plan will be developed that meets all applicable Critical Area Commission standards.

The Project is consistent with *this policy*.

***Critical Area Policy 18 – Protection of Critical Areas from Surface Mining Pollution:*** *All available measures must be taken to protect the Critical Area from all sources of pollution from surface mining operations, including but not limited to sedimentation and siltation, chemical and petrochemical use and spillage, and storage or disposal of wastes, dusts, and spoils. CAC (D5) COMAR 27.01.07.02A.*

The Project does not involve surface mining operations. Therefore, this policy is not applicable to the Project.

***Critical Area Policy 19 – Reclamation Requirements for Mining:*** *In the Critical Area, mining must be conducted in a way that allows the reclamation of the site as soon as possible and to the extent possible. CAC (D5) COMAR 27.01.07.02B.*

The Project does not involve mining. Therefore, this policy is not applicable to the Project.

***Critical Area Policy 20 – Restrictions on Sand & Gravel Operations:*** *Sand and gravel operations shall not occur within 100 feet of the mean high water line of tidal waters or the edge of streams or in areas with scientific value, important natural resources such as threatened and endangered species, rare assemblages of species, or highly erodible soils. Sand and gravel operations also may not occur where the use of renewable resource lands would result in the substantial loss of forest and agricultural productivity for 25 years or more or would result in a degrading of water quality or a loss of vital habitat. CAC (D5) COMAR 27.01.07.03D.*

The Project does not involve sand and gravel operations. Therefore, this policy is not applicable to the Project.



**Critical Area Policy 21 – Prohibition of Wash Plants in Buffer:** Wash plants including ponds, spoil piles, and equipment may not be located in the 100-foot buffer. CAC (D5) COMAR 27.01.07.03E.

The Project does not involve wash plants. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 22 – Requirements for Agriculture in the Buffer:** Agricultural activities are permitted in the buffer, if, as a minimum best management practice, a 25-foot vegetated filter strip measured landward from the mean high water line of tidal waters or tributary streams (excluding drainage ditches), or from the edge of tidal wetlands, whichever is further inland, is established in trees with a dense ground cover or a thick sod of grass. CAC (C4) COMAR 27.01.09.01-6.

The Project does not involve agricultural activities. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 23 – Geographical Limits for Feeding or Watering Livestock:** The feeding or watering of livestock is not permitted within 50 feet of the mean high water line of tidal waters and tributaries. CAC (C4) COMAR 27.01.09.01-5.

The Project does not involve the feeding or watering of livestock. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 24 – Creating New Agricultural Lands:** In the Critical Area, the creation of new agricultural lands shall not be accomplished by diking, draining, or filling of nontidal wetlands; by clearing of forests or woodland on soils with a slope greater than 15 percent or on soils with a "K" value greater than 0.35 and slope greater than 5 percent; by clearing that will adversely affect water quality or will destroy plant and wildlife habitat; or by clearing existing natural vegetation within the 100-foot buffer. CAC (C4) COMAR 27.01.06.02C.

The Project does not involve the creation of new agricultural lands in the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 25 – Best Management Practices for Agriculture:** Agricultural activity permitted within the Critical Area shall use best management practices in accordance with a soil conservation and water quality plan approved or reviewed by the local soil conservation district.

CAC (C4) COMAR 27.01.06.02G.

The Project does not involve agricultural activity within the Critical Area. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 26 – Cutting or Clearing Trees in the Buffer:** Cutting or clearing of trees within the buffer is prohibited except that commercial harvesting of trees by selection or by the clearcutting of loblolly pine and tulip poplar may be permitted to within 50 feet of the landward edge of the mean high water line of tidal waters and perennial tributary streams, or the edge of tidal wetlands if the buffer is not subject to additional habitat protection. Commercial harvests must be in compliance with a buffer management plan that is prepared by a registered professional forester and is approved by the Department of Natural Resources. CAC (C5) Md. Code Ann., Nat. Res. § 8-1808.7; COMAR 27.01.09.01-7.

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area under the Atlantic Coastal Bays Critical Area Program. A minimum 100-foot vegetated buffer will be maintained landward from the mean high water line of tidal waters, unless existing patterns of development prevent the buffer from protecting ecological quality and functions, in which case alternative means of protecting ecological resources will be proposed.

The Project is consistent with this policy.

**Critical Area Policy 27 – Requirements for Commercial Tree Harvesting in the Buffer:** *Commercial tree harvesting in the buffer may not involve the creation of logging roads and skid trails within the buffer and must avoid disturbing stream banks and shorelines as well as include replanting or allowing regeneration of the areas disturbed or cut in a manner that assures the availability of cover and breeding sites for wildlife and reestablishes the wildlife corridor function of the buffer. CAC (C5) Md. Code Ann., Nat. Res. § 8-1808.7; COMAR 27.01.09.01-6.*

The Project does not involve commercial tree harvesting in the buffer. Therefore, this policy is not applicable to the Project.

**Critical Area Policy 28 – General Restrictions to Intense Development:** *Intense development should be directed outside the Critical Area. Future intense development activities, when proposed in the Critical Area, shall be directed towards the intensely developed areas. CAC (D1) Md. Code Ann., Natural Res. § 8-1807(b); COMAR 27.01.02.02B.*

The Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure in Ocean City's inner harbor, which is an Intensely Developed Area under the Atlantic Coastal Bays Critical Area Program.

The Project is consistent with this policy.

**Critical Area Policy 29 – Development Restrictions in Critical Areas:** *The following development activities and facilities are not permitted in the Critical Area except in intensely developed areas and only after the activity or facility has demonstrated that there will be a net improvement in water quality to the adjacent body of water.*

- *Nonmaritime heavy industry*
- *Transportation facilities and utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters*
- *Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge when applied by an approved method at approved application rates may be permitted in the Critical Area, but not in the 100-foot Buffer*

CAC (C9) COMAR 27.01.02.02

The Project does not involve nonmaritime heavy industry, transportation or utility transmission facilities, or sludge handling, storage or disposal. Therefore, this policy is not applicable to the Project.

### **3.2.2 Tidal Wetlands**

**Tidal Wetlands Policy 1 – Projects That Alter Natural Character Shall Avoid Dredging & Filling, Be Water-Dependent and Provide Appropriate Mitigation:** *Any action which alters the natural character in, on, or over tidal wetlands; tidal marshes; and tidal waters of Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean shall avoid dredging and filling, be water-dependent, and provide appropriate mitigation for any necessary and unavoidable adverse impacts on these areas or the resources associated with these areas. A proponent of an action described above shall explain the actions impact on: habitat for finfish, crustaceans, mollusks, and wildlife of significant economic or ecologic value; potential habitat areas such as historic spawning and nursery grounds for anadromous and semi-anadromous fisheries species and shallow water areas suitable to support populations of submerged aquatic vegetation; marine commerce, recreation, and aesthetic enjoyment: flooding; siltation; natural water flow; water temperature, water quality, and natural tidal circulation; littoral drift; local, regional, and State economic conditions; historic property; storm water runoff, disposal of sanitary waste; sea level rise and other determinable and periodically recurring natural hazards; navigational safety; shore erosion; access to beaches and waters of the State; scenic and wild qualities of a designated State scenic or wild river; and historic waterfowl staging areas and colonial bird-nesting sites. MDE (B2) COMAR 26.24.01.01, COMAR 26.24.02.01, .03; COMAR 26.24.05.01.*

The Project will not alter the natural character in, on, or over tidal wetlands; tidal marshes; and tidal waters of Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean.

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure, which could occur onshore in a location that could affect coastal resources. If such development occurs, the appropriate mitigation measures for unavoidable impacts would be implemented as needed.

Activities that will occur in Maryland state waters are the transfer of personnel and material from the ports to the Lease area during construction. Vessels will utilize established vessel courses between a port in the Greater Baltimore area and O&M Facility to the Lease area. These areas are presently heavily traversed by vessels of varying size. Therefore, potential indirect impacts to tidal wetlands would be negligible to minor and associated with water quality and air quality impacts discussed in the preceding policy response statements.

Vessels utilizing the Chesapeake Bay and Maryland state waters are unlikely to have an impact on visual/scenic, recreational, or aesthetic enjoyment of tidal wetlands.

The Project is consistent with this policy.



### 3.2.3 Non-Tidal Wetlands

**Non-Tidal Wetlands Policy 1 – Removal or Alteration is Generally Prohibited Unless There Is No Practicable Alternative, in Which Case, Impacts are First Minimized & Then Mitigated to Replace Ecological Values Lost:** Removal, excavation, grading, dredging, dumping, or discharging of, or filling a non-tidal wetland with materials of any kind, including the driving or piles and placing of obstructions; changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; disturbing the water level or water table; or removing or destroying plant life that would alter the character of a non-tidal wetland is prohibited unless: The proposed project has no practicable alternative; adverse impacts are first avoided and then minimized based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions; comprehensive watershed management plans are considered; and the proposed project does not cause or contribute to an individual or cumulative effect that degrades aquatic ecosystem diversity, productivity, and stability, plankton, fish, shellfish, and wildlife, recreational and economic values, and public welfare, surface water quality, or ground water quality. Mitigation measures are required to replace the ecological values associated with non-tidal wetlands that are impaired by activities described above. MDE (C3) COMAR 26.23.01.01, COMAR 26.23.02.04, .06; COMAR 26.23.04.02.

The Project does not propose any structures or development within any non-tidal wetlands in Maryland. Vessel and vehicle use of tidal waterways and established roads will have no impact on non-tidal wetlands. Therefore, this policy is not applicable to the Project.

### 3.2.4 Forests

**Forest Policy 1 – Projects Impacting More Than 40,000 Square Feet Must Generally Identify & Protect Habitat & Mitigate for Impacts:** The Forest Conservation Act and its implementing regulations, as approved by NOAA, are enforceable policies. Generally, before developing an area greater than 40,000 square feet, forested and environmentally sensitive areas must be identified and preserved whenever possible. If these areas cannot be preserved, reforestation or other mitigation is required to replace the values associated with them. This policy does not apply in the Critical Area. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-1601 to -1613; COMAR 08.19.01-.06.

The Project does not propose any structures or development in forested areas. Vessel and vehicle use of tidal waterways and established roads will have no impact on forests. This policy is not applicable to the Project.

**Forest Policy 2 – Maintain Resource Sustainability & Prevent or Limit Clear-Cutting to Protect Watersheds:** Forestry activities shall provide for adequate restocking, after cutting, of trees and desirable species and condition; provide for reserving, for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and prevent clear cutting, or limit the size of a tract to be clear-cut in areas where clear-cutting will seriously interfere with protection of a watershed. DNR (C5) Md. Code Ann., Nat. Res. § 5-606.

The Project does not propose any forestry activities or clear-cutting. This policy is not applicable to the Project.

**Forest Policy 3 – Commercial Timber Cuts of Five Acres or More with Pines Comprising 25% of Live Trees Shall Ensure Pine Resource Sustainability:** *When any timber is cut for commercial purposes from five acres or more of land on which loblolly pine, shortleaf pine, or pond pine, singly or together occur and constitute 25 percent or more of the live trees on each acre, the person conducting the cutting or the landowner shall leave uncut and uninjured at least eight well distributed, cone-bearing, healthy, windfirm, loblolly, shortleaf, or pond pine trees on each acre cut for the purpose of reseeded. DNR (C5) Md. Code Ann., Nat. Res. §§ 5-501, -504.*

The Project does not involve any commercial timber cutting. This policy is not applicable to the Project.

**Forest Policy 4 – Minimize Forest Removal for Highway Construction Projects & Mitigate with Equivalent Reforestation of over 1 Acre Is Lost:** *Any highway construction activity, including related off-site environmental mitigation, may only cut or clear the minimum amount of trees and other woody plants necessary to be consistent with sound design principles. If over an acre of forest is lost as a result of the project, an equivalent area of publicly owned property shall be reforested. DNR/MDOT (C5) Md. Code Ann., Nat. Res. § 5-103.*

The Project does not involve any highway construction activity. This policy is not applicable to the Project.

**Forest Policy 5 – Protection of Roadside Trees Unless Removal or Trimming Is Justified:** *Roadside trees should not be cut down, trimmed, mutilated, or injured unless the activity will eliminate a hazard to property, public safety or health; improve or prevent tree deterioration; or improve the general aesthetic appearance of the right-of-way. DNR (C5) COMAR 08.07.02.05.*

The Project does not involve the removal or trimming of any roadside trees. This policy is not applicable to the Project.

**Forest Policy 6 – Sediment & Erosion Control in Non-Tidal Wetlands:** *A person conducting a forestry activity in non-tidal wetlands shall develop and implement a sediment and erosion control plan. MDE (C3) COMAR 26.23.05.02.*

The Project does not involve any forestry activity in non-tidal wetlands. This policy is not applicable to the Project.

### **3.2.5 Historical and Archaeological Sites**

**Historical and Archeological Policy 1 – Protection of Submerged Historic Resources:** *Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb submerged archeological historic property are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-341, -333.*

There are no anticipated Project impacts to any submerged archeological historical property. The Project does not propose any structures, development, or excavation within Maryland waters. Dredging within Maryland waters is not anticipated.

Therefore, this policy is not applicable to the Project.



**Historical and Archeological Policy 2 – Protection of Caves & Archeological Sites:** *Unless permission is granted by the Maryland Historical Trust, activities that excavate, remove, destroy, injure, deface, or disturb cave features or archeological sites under State control are generally prohibited. MDP (C8) Md. Code Ann., State Fin. & Proc. §§ 5A-342, -343.*

There are no anticipated Project impacts to any cave features or archeological sites under State control. US Wind plans to use a suitable preexisting facility located pier side in the Ocean City, Maryland area for the O&M Facility. If required due to real estate constraints, US Wind has also planned for the construction of a facility in close proximity to the harbor in order to limit its footprint in the Ocean City harbor area. It is anticipated that any construction related to the O&M facility will occur on previously disturbed land.

Therefore, this policy is not applicable to the Project.

**Historical and Archeological Policy 3 – Protection of Burial Sites & Cemeteries:** *Neither human remains nor funerary objects may be removed from a burial site or cemetery, unless permission is granted by the local State’s Attorney. MDP (C8) Md. Code Ann., Crim. Law §§ 10-401 to -404.*

There are no anticipated Project impacts to any burial sites or cemeteries. US Wind plans to use a suitable preexisting facility located pier side in the Ocean City, Maryland area for the O&M Facility. If required due to real estate constraints, US Wind has also planned for the construction of a facility in close proximity to the harbor in order to limit its footprint in the Ocean City harbor area. It is anticipated that any construction related to the O&M facility will occur on previously disturbed land.

Therefore, this policy is not applicable to the Project.

### **3.2.6 Living Aquatic Resources**

**Living Aquatic Resources Policy 1 – Protection of Rare, Threatened or Endangered Fish or Wildlife:** *Unless authorized by an Incidental Take Permit, no one may take a State listed endangered or threatened species of fish or wildlife. DNR (A4) Md. Code Ann., Nat. Res. §§ 4-2A-01 to -09; Md. Code Ann., Nat. Res. §§ 10-2A-01 to -09.*

Take of State listed endangered or threatened species of fish or wildlife is not anticipated. US Wind will apply for and obtain Incidental Harassment Authorizations (IHAs) or a Letter of Authorization (LOA) from NOAA Fisheries, as appropriate. IHAs or LOAs are typically required for in-water construction activities (i.e., pile driving), which will take place in the OCS or Delaware state waters. Construction activities within Maryland state waters are limited to the transfer of personnel and construction equipment between the ports and the Project Area.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 2 – Sustainable Harvesting of Fisheries:** *Fisheries shall be sustainably harvested. DNR (A4) Md. Code Ann., Nat. Res. § 4-215.*

The Project does not involve harvesting fisheries. Therefore, this policy is not applicable to the Project.



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**Living Aquatic Resources Policy 3 – Protection of State Fishery Sanctuaries & Management Resources:** Any land or water resource acquired by the State to protect, propagate, or manage fish shall not be damaged. DNR (A4) Md. Code Ann., Nat. Res. § 4-410.

The Project will not damage land or water resources acquired by the State to protect, propagate, or manage fish.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 4 – Fish Passage:** No activity will be permitted that impedes or prevents the free passage of any finfish, migratory or resident, up or down stream. DNR (A4) Md. Code Ann., Nat. Res. § 4-501 to -502.

The Project will not impede or prevent the free passage of any finfish, migratory or resident, up or down stream.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 5 – Time-of-Year Restrictions for Construction in Non-Tidal Waters:** All in-stream construction in non-tidal waters is prohibited from October through April, inclusive, for natural trout waters and from March through May, inclusive, for recreational trout waters. In addition, the construction of proposed projects, which may adversely affect anadromous fish spawning areas, shall be prohibited in non-tidal waters from March 15 through June 15, inclusive. MDE (C2) COMAR 26.17.04.11B(5).

The Project does not involve any in-stream construction in non-tidal waters. Therefore, this policy is not applicable to the Project.

**Living Aquatic Resources Policy 6 – Protection of Forest Buffers Along Trout Streams:** Riparian forest buffers adjacent to waters that are suitable for the growth and propagation of self-sustaining trout populations shall be retained whenever possible. MDE (C5) COMAR 26.08.02.03-3F.

The Project will not impact riparian forest buffers adjacent to waters that are suitable for the growth and propagation of self-sustaining trout populations. Therefore, this policy is not applicable to the Project.

**Living Aquatic Resources Policy 7 – Non-Tidal Habitat Protection & Mitigation:** Projects in or adjacent to non-tidal waters shall not adversely affect aquatic or terrestrial habitat unless there is no reasonable alternative and mitigation is provided. MDE (C2) COMAR 26.17.04.11B(5).

The Project does not involve work in or adjacent to non-tidal waters. Therefore, this policy is not applicable to the Project.

**Living Aquatic Resources Policy 8 – Protection & Management of Submerged Aquatic Vegetation:** The harvest, cutting, or other removal or eradication of submerged aquatic vegetation may only occur in a strip up to 60 feet wide surrounding a pier, dock, ramp, utility crossing, or boat slip to point of ingress in a marina, otherwise the activity must receive the approval of the Department of Natural Resources. No chemical may be used for this purpose,



*and the timing and method of the activity shall minimize the adverse impact on water quality and on the growth and proliferation of fish and aquatic grasses. MDE (A4) Md. Code Ann., Nat. Res. § 4-213.*

The Project does not involve the harvest, cutting, or other removal or eradication of submerged aquatic vegetation in a strip up to 60 feet wide surrounding a pier, dock, ramp, utility crossing, or boat slip to point of ingress in a marina. Therefore, this policy is not applicable to the Project.

**Living Aquatic Resources Policy 9 – Protection of Natural Oyster Bars:** *Natural oyster bars in the Chesapeake Bay shall not be destroyed, damaged, or injured. DNR (A4) Md. Code Ann., Nat. Res. § 4-1118.1.*

The Project will not destroy, damage, or injure natural oyster bars in the Chesapeake Bay. The only activities that will occur within the Chesapeake Bay include vessel transits between a port in the Greater Baltimore Area and the Lease area. The vessels will follow established vessel courses within the Chesapeake Bay.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 10 – Protection of Oyster Aquaculture Leases:** *A person, other than the leaseholder, may not willfully and without authority catch oysters on any aquaculture or submerged land lease area, or willfully destroy or transfer oysters on this land in any manner. DNR (A4) Md. Code Ann., Nat. Res. § 4-11A-15(a).*

US Wind and its contractors will not catch oysters on any aquaculture or submerged land lease area or willfully destroy or transfer oysters on this land in any manner.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 11 – Genetically Modified Organisms (GMOs) Are Prohibited in State Waters:** *An organism into which genetic material from another organism has been experimentally transferred so that the host acquires the genetic traits of the transferred genes may not be introduced into State waters. DNR (A4) COMAR 08.02.19.03.*

No GMOs will be introduced into State waters for the Project.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 12 – Control of Nonnative Aquatic Organisms:** *Vectors for the introduction of nonnative aquatic organisms must be appropriately controlled to prevent adverse impacts on aquatic ecosystems. DNR (A4) Md. Code Ann., Nat. Res. § 4-205.1.*

As needed, vessels from outside Maryland waters used during the construction of the Project will undergo proper cleaning procedures to control the transport of nonnative aquatic organisms.

The Project is consistent with this policy.



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**Living Aquatic Resources Policy 13 – Control of Snakehead Fish:** *Except as authorized by federal law, any live snakehead fish or viable eggs of snakehead fish of the Family Channidae may not be imported, transported, or introduced into the State. DNR (A4) COMAR 08.02.19.06.*

The Project will not involve the import, transportation, or introduction into the state of live snakehead fish or viable eggs of snakehead fish.

The Project is consistent with this policy.

**Living Aquatic Resources Policy 14 – Nonnative Oysters Prohibited in State Waters:** *Nonnative oysters may not be introduced into State waters. DNR (A4) Md. Code Ann., Nat. Res. § 4-1008.*

As needed, vessels from outside Maryland waters used during the construction of the Project will undergo proper cleaning procedures to control the transport of nonnative oysters.

The Project is consistent with this policy.

### **3.3 Coastal Uses**

#### **3.3.1 Mineral Extraction**

The Project does not involve mineral extraction. Therefore, these policies are not applicable to the Project.

#### **3.3.2 Electrical Generation and Transmission**

The Project does not involve the construction or operation of power plants, transmission lines, or utilities within Maryland State waters or lands. Therefore, these policies are not applicable to the Project.

#### **3.3.3 Tidal Shore Erosion Control**

The Project does not involve tidal shore erosion controls or beach nourishment. Therefore, these policies are not applicable to the Project.

#### **3.3.4 Oil and Natural Gas Facilities**

**Oil and Natural Gas Facilities Policy 1 – CFRA and Its Regulations Are An Overarching Policy for Oil and Gas Facilities:** *The Coastal Facilities Review Act (CFRA) and its implementing regulations, as approved by NOAA, serve as an overarching policy for oil and natural gas facilities.*

The Project will not include any oil or natural gas facilities. Therefore, this policy is not applicable to the Project.

**Oil and Natural Gas Facilities Policy 2 – Detection & Control of Oil Spills:** *To detect and control oil spills, all private tank vessels transporting oil in the State must either be equipped with a cargo level monitoring system, have double hulls, have a plan for inspecting load lines approved*



by the Department of the Environment, or be accompanied by an all-weather escort vessel for the purpose of continuously checking for evidence of an oil discharge from the escorted tank vessel. MDE (A2) Md. Code Ann., Envir. § 4-405 (b)(1); COMAR 26.10.01.23B.

The Project does not involve the transportation of oil. Therefore, this policy is not applicable to the Project.

**Oil and Natural Gas Facilities Policy 3 – Financial Capacity to Cover Oil Spill Cleanup:**

*Through bond or other form of security, the operator of a private tank vessel transporting more than 25 barrels of oil as cargo must be able to prove the financial ability to cover the cost of oil spill cleanup and recovery before entering waters of the State. MDE (A2) COMAR 26.10.01.24A.*

The Project does not involve the transportation of more than 25 barrels of oil as cargo. Therefore, this policy is not applicable to the Project.

**Oil and Natural Gas Facilities Policy 4 – No Discharge of Oil in Areas That May Enter State Waters:**

*No person may discharge oil in any manner, including through bilge and ballast water, or deposit it in an area where it may enter waters of the State. MDE (A2) Md. Code Ann., Envir. § 4-410(a); COMAR 26.10.01.02B.*

Project vessels will not discharge oil in any manner, including through bilge and ballast water, or deposit it in an area where it may enter waters of the State.

The Project is consistent with this policy.

**Oil and Natural Gas Facilities Policy 5 – Above-Ground Storage Sites Shall Prevent Oil from Polluting State Waters:**

*Above-ground oil storage sites shall prevent movement of oil into the waters of the State. MDE (D1) COMAR 26.10.01.12B(1).*

The Project does not involve above-ground oil storage sites. Therefore, this policy is not applicable to the Project.

**Oil and Natural Gas Facilities Policy 6 – Oil Shall Not Be Stored within Tidal Waters or Within 100-Year Floodplain Unless Permitted:**

*The construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood plain is prohibited without first obtaining a State Wetlands Permit or providing an equivalent level of environmental protection. MDE (D1) COMAR 26.10.01.12B(3).*

The Project does not involve the construction of above-ground oil storage tanks, dikes, or walls within the tidal wetlands or within the 100-year flood plain. Therefore, this policy is not applicable to the Project.

### **3.3.5 Dredging and Disposal of Dredged Material**

The Project does not involve dredging (improvement or maintenance) or disposal in Maryland State waters. Therefore, these policies are not applicable to the Project.

### 3.3.6 Navigation

**Navigation Policy 1 – Piers Are Preferred to Dredging in Providing Access to Deep Waters:** *Navigational access projects shall when possible be designed to use piers to reach deep waters rather than dredging. MDE (B2) COMAR 26.24.03.02.*

This is not a navigational access project. Therefore, this policy is not applicable to the Project.

**Navigation Policy 2 – Central Access Channels with Short Spurs Are Preferred to Multiple Separate Channels:** *Navigational access channels to serve individual or small groups of riparian landowners shall be designed to prevent unnecessary channels. A central access channel with short spur channels shall be considered over separate access channels for each landowner. MDE (B2) COMAR 26.24.03.02.*

The Project does not involve the design or construction of navigational access channels. Therefore, this policy is not applicable to the Project.

**Navigation Policy 3 – Channels Shall Minimize Impacts to Tidal Wetlands & Underwater Topography:** *Navigational access channels shall be designed to minimize alteration of tidal wetlands and underwater topography. MDE (B2) COMAR 26.24.03.02.*

The Project does not involve the design or construction of navigational access channels. Therefore, this policy is not applicable to the Project.

**Navigation Policy 4 – New & Expanded Marinas, with a Preference Given to Expansion of Existing Facilities, Shall Be Located in Strongly Flushed Waters More Than 4.5 Feet Deep at Mean Low Tide & Not Adversely Impact Habitat:** *New or expanded facilities for the mooring, docking, or storing of more than ten vessels on tidal navigable waters shall be located on waters with strong flushing characteristics and may not be located in areas where the natural depth is 4.5 feet or less at mean low water, and any of the following will be adversely affected: aquatic vegetation, productive macroinvertebrate communities, shellfish beds, fish spawning or nursery areas, rare, threatened, or endangered species, species in need of conservation, or historic waterfowl staging areas. Expansion of existing facilities is favored over new development. MDE (A1) COMAR 26.24.04.03.*

The Project does not involve the construction of new or expanded facilities for the mooring, docking, or storing of more than ten vessels on tidal navigable waters. Therefore, this policy is not applicable to the Project.

**Navigation Policy 5 – Restrictions on Placement of Mooring Buoys:** *The location of buoys for the mooring of boats shall not be located in designated private or public shellfish areas, cable-crossing areas, navigational channels, in other places in where general navigation would be impeded or obstructed, or public ship anchorage. The location of mooring buoys should not obstruct the riparian access of adjacent property owners or hinder the orderly access to or use of the waterways by the general public. DNR (A1) COMAR 08.04.13.02.*

The Project does not involve the installation of buoys for the mooring of boats. Therefore, this policy is not applicable to the Project.





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***Navigation Policy 6 – Noise Limit for Vessels on State Waters:*** *Vessels operated on state waters should not exceed a noise level of 90dB(a). DNR (A1) COMAR 08.18.03.03.*

Project vessels operated on state waters will not exceed a noise level of 90 dB(a).

The Project is consistent with this policy.

### **3.3.7 Transportation**

The Project does not involve the development, improvement, or construction of public or private transportation facilities. Therefore, these policies are not applicable to the Project.

### **3.3.8 Agriculture**

The Project does not involve agricultural activities or operations. Therefore, these policies are not applicable to the Project.

### **3.3.9 Development**

***Development Policy 1 – Sediment & Erosion Control:*** *Any development shall be designed to minimize erosion and keep sediment onsite. MDE (C4) COMAR 26.17.01.08.*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. If such development occurs, the appropriate mitigation measures to minimize erosion and keep sediment onsite would be implemented as needed.

The Project is consistent with this policy.

***Development Policy 2 – Erosion & Sediment Control Plan:*** *An erosion and sediment control plan is required for any grading activity that disturbs 5,000 square feet of land area and 100 cubic yards of earth or more, except for agricultural land management practices and agricultural best management practices. MDE (C9) COMAR 26.17.01.05.*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. If such development occurs, and the grading activity required disturbs 5,000 square feet of land area and 100 cubic yards of earth or more, an erosion and sediment control plan will be implemented.

The Project is consistent with this policy.

***Development Policy 3 – Stormwater Management:*** *Development or redevelopment of land for residential, commercial, industrial, or institutional use shall include stormwater management compliant with the Environmental Site Design sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria. MDE (C9) COMAR 26.17.02.01, -.06.*



The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. If such development occurs, stormwater management control measures which are compliant with the applicable Environmental Site Design criteria, would be implemented.

The Project is consistent with this policy.

**Development Policy 4 – First Avoid then Minimize Wetland Impacts, Minimize Water Quality, Habitat & Forest Damage & Preserve Cultural Resources:** *Development must avoid and then minimize the alteration or impairment of tidal and non-tidal wetlands; minimize damage to water quality and natural habitats; minimize the cutting or clearing of trees and other woody plants; and preserve sites and structures of historical, archeological, and architectural significance and their appurtenances and environmental settings. MDE/DNR/CAC (D6) Md. Code Ann., Envir. §§ 4-402, 5-907(a), 16-102(b); Md. Code Ann., Nat. Res. §§. 5-1606(c), 8-1801(a); Md. Code Ann., Land Use § 8-102; COMAR 26.24.01.01(A).*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. Such development would be on previously disturbed land to avoid and minimize wetland alteration, damage to water quality and natural habitats, cutting or clearing of trees and other woody plants, or impacts to historical, archeological, or architectural significant structures.

The Project is consistent with this policy.

**Development Policy 5 – Proposed Development Projects Must Be Sited Where Adequate Water Supply, Sewerage and Solid Waste Services & Infrastructure Are Available:** *Any proposed development may only be located where the water supply system, sewerage system, or solid waste acceptance facility is adequate to serve the proposed construction, taking into account all existing and approved developments in the service area and any water supply system, sewerage system, or solid waste acceptance facility described in the application and will not overload any present facility for conveying, pumping, storing, or treating water, sewage, or solid waste. MDE (C9) Md. Code Ann., Envir. § 9-512.*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. The O&M facility will have minimal water supply or sewer needs, primarily limited to the potable water and sanitary needs of its personnel, so that it will not overload existing water or sewer infrastructure facilities, and it will not generate any solid wastes that will require disposal at a solid waste acceptance facility.

The Project is consistent with this policy.

**Development Policy 6 – Proposed Construction Must Have Water and Wastewater Allocation or Provide Onsite Capacity:** *A proposed construction project must have an allocation of water and wastewater from the county whose facilities would be affected or, in the alternative, prove access to an acceptable well and on-site sewage disposal system. The water supply*



system, sewerage system, and solid waste acceptance facility on which the building or development must rely must be capable of handling the needs of the proposed project in addition to those of existing and approved developments. MDE (D6) Md. Code Ann., Envir. § 9-512.

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. If such development occurs, any proposed construction would include sufficient onsite water supply and wastewater management capacity to handle the needs of the Project.

The Project is consistent with this policy.

**Development Policy 7 – Structures Served by On-Site Water and Sewage Waste Disposal Systems Must Demonstrate Capacity Prior to Construction or Alteration:** *Any residence, commercial establishment, or other structure that is served or will be served by an on-site sewage disposal system or private water system must demonstrate that the system or systems are capable of treating and disposing the existing sewage flows and meeting the water demand and any reasonably foreseeable increase in sewage flows or water demand prior to construction or alteration of the residence, commercial establishment, or other structure. MDE (D6) COMAR 26.04.02.03F.*

The Project plans to use existing structures for the O&M Facility to the extent facilities are available. However, in the event such facilities are not available, the Project contemplates the potential for the construction of a new O&M Facility or a substantial upgrade of an existing structure. If such development occurs, it is not anticipated that an on-site sewage disposal system or private water system will be required. If an on-site sewage disposal system or private water system was required, the Project would demonstrate that such systems are capable of meeting the existing and foreseeable future demands prior to construction.

The Project is consistent with this policy.

**Development Policy 8 – Grading or Building in the Severn River Watershed Requires Approved Development Plan:** *Proponents of grading or building in the Severn River Watershed must create a development plan and have it approved by the soil conservation district. The plan shall include a strategy for controlling silt and erosion and must demonstrate that any septic or private sewer facility will not contribute to the pollution of the Severn River. MDE (D4) Md. Code Ann., Envir. § 4-308(a).*

The Project is not proposing any grading or building in the Severn River Watershed. This policy is not applicable to the Project.

**Development Policy 9 – Siting Requirements for Industrial Facilities:** *Industrial facilities must be sited and planned to ensure compatibility with other legitimate beneficial water uses, constraints imposed due to standards of air, noise and water quality, and provision or availability of adequate water supply and wastewater treatment facilities. MDE (D4) Md. Code Ann., Envir. §§ 2-102, 4-402, 9-224(b), 9-512(b); COMAR 26.02.03.02; COMAR 26.11.02.02B.*

The O&M Facility will be sited at an existing industrial facility or at an industrially zoned property within the Ocean City inner harbor and will be compatible with the other existing beneficial water



uses located within the inner harbor area. The O&M Facility will be part of the Project, which will provide the beneficial water use of helping to develop the offshore wind industry off of the coast of Maryland to reduce its dependence on fossil fuels and reduce air emissions from regional energy generating resources. Impacts from the O&M Facility on air, noise, and water quality will be minimized through the associated state and local permitting processes. The Project will ensure that there are adequate water supply and wastewater treatment facilities available for its use.

The Project is consistent with this policy.

**Development Policy 10 – Citizen Engagement in Planning & Development:** *Local citizens shall be active partners in planning and implementation of development. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.*

US Wind is also actively engaging local stakeholders to provide feedback on the planning and implementation of the Project. The Project will also be required to obtain numerous federal, state, and local permits for its construction and operation. These permitting processes will all include opportunities for local citizens to provide feedback. In particular, there will be local building permits that will be required for the O&M Facility that will provide additional opportunities for public engagement from local citizens.

The Project is consistent with this policy.

**Development Policy 11 – Protect Existing Community Character & Concentrate Growth:** *Development shall protect existing community character and be concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.*

The O&M Facility will be sited at an existing industrial facility or at an industrially zoned site amongst other similar waterfront, industrial uses, consistent with, and thus preserving, the existing community character.

The Project is consistent with this policy.

**Development Policy 12 – Site Development Near Available or Planned Transit:** *Development shall be located near available or planned transit options. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.*

The O&M Facility will be located within walking distance to a public bus stop located on Kelly Bridge Lane.

The Project is consistent with this policy.

**Development Policy 13 – Design for Walkable, Mixed Use Communities:** *Wherever possible, communities shall be designed to be compact, contain a mixture of land uses, and be walkable. MDP (D6) Md. Code Ann., St. Fin. & Proc. §§ 5-7A-01 to -02.*

The Project does not involve the design of a community. This policy is not applicable to the Project.



**Development Policy 14 – Communities Must Identify Adequate Water Supply, Stormwater & Wastewater Services & Infrastructure to Meet Existing & Future Development:** *To meet the needs of existing and future development, communities (geographically defined areas with shared interests, values, resources, and goals) must identify adequate drinking water and water resources and suitable receiving waters and land uses for stormwater management and wastewater treatment and disposal. MDE (D6) Md. Code Ann., Land Use § 3-106.*

The Project does not involve the design of a community. This policy is not applicable to the Project.

### **3.3.10 Sewage Treatment**

**Sewage Treatment Policy 1 – Protection of State Waters for Designated Uses:** *The quality of state waters shall be protected, maintained, and improved for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses. MDE (D7) Md. Code Ann., Envir. §§ 4-402, 9-302(b), 9-323(a).*

During Project construction and operations activities, all vessels will be in full compliance with applicable State laws and policies regarding vessel operations and discharges of waste.

The Project is consistent with this policy.

**Sewage Treatment Policy 2 – Waste Must Be Treated Prior To Discharge to Protect Designated Uses:** *No waste shall be discharged into any waters of the State without first receiving necessary treatment or other corrective action to protect the legitimate beneficial uses of the State's waters. MDE (D7) Md. Code Ann., Envir. §§ 9-302(b), -323(a).*

The Project will not discharge waste into waters of the State without first receiving necessary treatment or other corrective action to protect the legitimate beneficial uses of the State's waters.

The Project is consistent with this policy.

**Sewage Treatment Policy 3 – Wastes May Not Be Disposed of in a Manner that Likely Creates a Nuisance or Causes Ground or Water Contamination:** *Sewage or sewage effluent, treated or non-treated, or industrial wastes may not be disposed of in any manner that will create a nuisance or cause contamination of potable water supply systems, the waters of the State, or the ground surface. MDE (D7) COMAR 26.04.02.02.*

US Wind does not anticipate disposal of sewage or industrial waste. If necessary, US Wind and its contractors will obtain permits under the Maryland law if necessary to dispose of sewage or sewage effluent, treated or non-treated, or industrial wastes that may create a nuisance or cause contamination of potable water supply systems, the waters of the State, or the ground surface.

The Project is consistent with this policy.

**Sewage Treatment Policy 4 – Waste May Not Be Discharged Into the Patuxent & Severn Rivers & Their Tributaries:** *A person may not discharge raw sewage or any other waste into the Patuxent River, the Severn River, or any of their tributaries. MDE (D7) Md. Code Ann., Envir. § 4-307.*



The Project will not discharge raw sewage or any other waste into the Patuxent River, the Severn River, or any of their tributaries.

The Project is consistent with this policy.

**Sewage Treatment Policy 5 – Sewage Sludge May Not Be Discharged Into the Chesapeake Bay, or the Bay’s Tidewater Tributaries Within 5 Miles of Hart-Miller-Pleasure Island Chain:**

*A person may not dump, deposit, scatter, or release sewage sludge by any means, including discharge from a sewer or pipe, into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of any of the Chesapeake Bay’s tributaries within 5 miles of the Hart-Miller-Pleasure Island chain in Baltimore County. MDE (D7) Md. Code Ann., Envir. § 5-1102(e).*

US Wind and its contractors will not dump, deposit, scatter, or release sewage sludge, including discharge from a sewer or pipe, into or onto any portion of the water or bottomland of the Chesapeake Bay or of the tidewater portions of any of the Chesapeake Bay’s tributaries within 5 miles of the Hart-Miller-Pleasure Island chain in Baltimore County.

The Project is consistent with this policy.

**Sewage Treatment Policy 6 – A Discharge Permit is Required Prior to Constructing, Altering or Operating a Sewage Treatment Facility:**

*Before constructing, installing, modifying, extending, altering, or operating a sewage treatment facility that could cause or increase the discharge of pollutants into the waters of the State, the proponent must hold a discharge permit issued by the Department of the Environment or provide an equivalent level of water quality protection. MDE (D7) Md. Code Ann., Envir. § 9-323(a).*

The Project does not involve the construction, installation, modification, extension, alteration, or operation of a sewage treatment facility. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 7 – Water Quality Protection from On-Site Sewage Disposal Systems:**

*Before attempting to construct or alter an on-site sewage disposal system or cause it to receive any increase in flow or change in the character of wastewater, the proponent must provide an equivalent level of water quality protection to that of a permit from the Department of the Environment. MDE (D7) COMAR 26.04.02.03.*

**Sewage Treatment Policy 8 – New Sewage Treatment Plants Shall Meet State Effluent Water Quality Standards:**

*New sewage treatment plants shall be constructed so as to meet the State effluent water quality standards, including those for bacteriological values, dissolved oxygen, pH, and temperature conditions, which may require advanced waste treatment. MDE (D7) Md. Code Ann., Envir. § 4-303.*

The Project does not involve the construction of a new sewage treatment plant. Therefore, this policy is not applicable to the Project.



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**Sewage Treatment Policy 9 – At Least Secondary Treatment Is Required for Sewage Treatment Discharge Into Any State Waters:** *Secondary treatment is required as a minimum for sewage treatment works discharging into any waters of the State. MDE (D7) COMAR 26.08.04.04C.*

The Project does not involve sewage treatment works discharging into any waters of the State. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 10 – If Secondary Treatment Cannot Achieve Water Quality or Nutrient Control Requirements, Sewage Treatment Facilities Are Subject to Additional Restrictions:** *If compliance with the established water quality standards or nutrient control requirements cannot be achieved through secondary treatment for all sewage discharges within a specific river segment or water region, the sewage treatment facilities are subject to additional restrictions. MDE (D7) COMAR 26.08.01.02C.*

The Project does not involve sewage treatment facilities. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 11 – Advanced Waste Treatment is Required for Facilities Exceeding 1 Million Gallons Per Day Discharging into Water Quality Limited Waters & May Be Needed on Smaller Systems:** *Advanced waste treatment is required for all sewage treatment works with a design capacity exceeding 1 million gallons per day and discharging into water quality limited waters. Advanced waste treatment may also be required for smaller sewage treatment works where the Department of the Environment determines that this level of treatment is necessary. MDE (D7) COMAR 26.08.04.04C.*

The Project does not involve sewage treatment works discharging into any waters of the State. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 12 – Phosphorous Discharge Limits for Sewage Treatment Plants:** *An effluent limitation of 2 milligrams/liter total phosphorus is required for all facilities discharging more than: 500,000 gallons per day to the Chesapeake Bay and its tributaries above the Baltimore Harbor and 10 million gallons per day in the vicinity of Baltimore Harbor to the Bay Bridge. MDE (D7) COMAR 26.08.04.04C.*

The Project does not involve sewage treatment facilities. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 13 – Protection of Shellfish Harvest Areas:** *If discharging into shellfish harvesting waters, sewage treatment must be sufficient to protect shellfish harvesting, potentially requiring advanced waste treatment, and the treatment plant must have a bypass control system, including a minimum 24-hour emergency holding facility. MDE (D7) COMAR 26.08.04.04C.*

The Project does not involve sewage treatment facilities. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 14 – Requirements for Holding Tanks:** *Holding tanks shall be watertight and sized to hold at least 7 days of effluent. MDE (D7) COMAR 26.04.02.02L.*



The Project does not involve sewage treatment facilities. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 15 – Sewage System Compliance with County Plans:** *Sewerage systems must conform to the county plan or revision or amendment of the county plan. MDE (D7) Md. Code Ann., Envir. § 9-511.*

The Project does not involve sewerage systems. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 16 – Safe Treatment or Disposal of Sewage Sludge:** *A sewage sludge utilizer that is engaged in treatment, composting, distribution, application on agricultural or marginal land, or marketing of sewage sludge shall ensure the sewage sludge meets applicable pathogen requirements for Class A or B sewage sludge. MDE (D7) COMAR 26.04.06.02, .12, .17, .32, .38, .42, .52.*

The Project does not involve sewage sludge treatment or disposal. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 17 – Sewage Sludge Utilization Must Ensure Protection of the Public & the Environment:** *Sewage sludge utilization is prohibited if it cannot be done without causing an undue risk to the environment or public health, safety, or welfare or if the sewage sludge was generated in a state that does not apply sewage sludge to land. MDE (D7) Md. Code Ann., Envir. § 9-245; COMAR 26.04.06.01, .11, .74.*

The Project does not involve sewage sludge utilization. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 18 – Sewage Sludge Utilization Permit:** *Prior to utilizing sewage sludge in Maryland, a person shall obtain a sewage sludge utilization permit from the Maryland Department of the Environment or provide an equivalent level of environmental protection. MDE (D7) Md. Code Ann., Envir. § 9-231.*

The Project does not involve sewage sludge utilization. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 19 – A Sewage Sludge User May Not Interfere with State or Local Inspections at a Utilization Site:** *A sewage sludge utilizer may not interfere with any inspection of a sewage sludge utilization site, including prohibiting access to any representative of the Department of the Environment, to a local health official, or to the local health official's designee who requests access to perform any activities to determine compliance with the applicable permit, authorization, approvals, and regulations. MDE (D7) Md. Code Ann., Envir. § 9-243; COMAR 26.04.06.04.*

The Project does not involve sewage sludge utilization or a sewage sludge utilization site. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 20 – Sewage Sludge Composting or Storage Facilities Must Meet Local Zoning Requirements:** *Sewage sludge composting or storage facilities must meet all*





*zoning and land use requirements of the county in which the facility is to be located. MDE (D7) Md. Code Ann., Envir. § 9-233*

The Project does not involve sewage sludge composting or storage facilities. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 21 – Public Engagement in Siting of a Sewage Sludge Storage or Distribution Facility:** *The public shall be given an opportunity to present its views prior to any final decision being made on the siting of sewage sludge or a sewage sludge storage or distribution facility. MDE (D7) Md. Code Ann., Envir. §§ 9-234, -234.1, -238(c); COMAR 26.04.06.14.*

The Project does not involve the siting of a sewage sludge or sewage sludge storage or distribution facility. Therefore, this policy is not applicable to the Project.

**Sewage Treatment Policy 22 – Limits on the Use of On-Site Sewage Disposal Systems:** *On-site sewage disposal systems are prohibited:*

- *If they may pollute well water supplies, water supply reservoirs, shellfish growing waters, bathing beaches, lakes, or tidewater areas, including within 25 feet of drainage ways, flood plain soils, gullies, rock outcroppings, or slopes in excess of 25 percent;*
- *50 feet from water well systems in confined aquifers;*
- *100 feet from water well systems in unconfined aquifers, water bodies not serving as potable water supplies, sinkholes underlain by karst topography, and a stream bank when further than 3,000 feet upstream of an intake for a potable water supply; and*
- *200 feet from a stream bank when closer than 3,000 feet upstream of such an intake.*

*MDE (D7) COMAR 26.04.02.03; COMAR 26.04.02.04.*

The Project does not involve an on-site sewage disposal system. Therefore, this policy is not applicable to the Project.

## 4.0 References

BOEM, U.S. Department of the Interior Bureau of Offshore Energy Management. 2007. Alternative Energy Final Programmatic Environmental Impact Statement

USEPA, U.S. Environmental Protection Agency. 2019. "EPA Green Book." <https://www.epa.gov/green-book>.